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Monat Global Corp.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MONAT GLOBAL CORP.,

Plaintiff,

v.

TONI MILLER

Defendants.

CASE NO.:

COMPLAINT

Monat Global Corp, by its undersigned counsel, complains against Toni Miller as follows:

Jurisdiction and Venue

1. This Court has subject matter jurisdiction over Monat's claims under 28 U.S.C. § 1332 because Monat and Miller are citizens of different states, and the amount in controversy exceeds \$75,000.

2. Venue is proper in the District of Nevada because Miller resides here, and upon information belief, made the disparaging and defamatory statements, and carried out the unfair and deceptive acts at issue, in this district.

...

...

The Parties

3. Monat Global Corp (“Monat”) is a Florida Corporation, with its principal place of business in Doral, Florida.

4. Toni Miller (“Miller”) is, upon information and belief a citizen of Las Vegas, Nevada.

Factual Background

5. Monat is a world-class designer, manufacturer, and distributor of hair care and personal products throughout the United States and Canada.

6. Monat sells its products using a direct sales model, under which it engages a number of independent sales representatives, referred to as “Market Partners,” to market and distribute its products.

7. Monat provides commissions and other financial incentives to its Market Partners for sales they make, and for purchases and sales made by new and additional Market Partners that they recruit.

8. Monat’s Market Partners utilize Facebook and other social media as the primary avenue of marketing Monat's products.

9. Miller is a hairstylist who, on information and belief, works at Posare Salon & Boutique, LLC (the “Salon”).

10. On information and belief, the Salon sells salon-brand hair care products in competition with Monat, including Redken, OPI, Pureology, Nioxin, Moroccanoil, and others.

11. On information and belief, Miller receives a commission, or other job-related incentives, to sell the salon-brand hair care products offered by the Salon.

12. On information and belief, Miller sells hair care products that compete with Monat products.

13. Miller has also offered “treatments” to users of Monat products for \$45 per treatment. (Exhibit A).

14. Miller offered other “treatments” to users of Monat products, explaining that she will “try and reverse the damage and it will be expensive but I will fix it in a few appointments.”

1 (Exhibit A.)

2 15. Thus, Miller's own Facebook posts betray the financial motivations she has
3 for posting negative information about Monat.

4 16. The events giving rise to this Complaint began on or about January 2018
5 when Miller began a smear campaign against Monat on social media, primarily Facebook.

6 17. Since January 2018, Miller has repeatedly and consistently posted
7 egregiously false and damaging information about Monat and its products.

8 18. As demonstrated in the examples listed below, as well as the exhibits hereto,
9 Miller has repeatedly and falsely alleged that Monat products cause issues including, but not
10 limited to, miscarriages, harm to unborn babies, bloody stool, migraines, problems with breast
11 feeding, menstruation problems, balding, scalp sores, chemical burns, hair loss, and scalp lesions.

12 19. Miller claimed that, due to the PH levels, Monat products are unsafe for
13 consumer use: "The PH level in shampoo and hair care products to be safe is 5.5-6.5 anything lower
14 or higher than that is not deemed safe. Monat is 3.5-4.0 that is unsafe." (Exhibit B).

15 20. Miller alleged that Monat products are "destroying peoples lives" and are
16 "toxic." (Exhibit C.)

17 21. Miller repeatedly implied that Monat causes harm to unborn babies and/or
18 causes infertility. (Exhibit B, Exhibit D).

19 22. Miller asserted that Monat has caused reduced milk supply in breastfeeding
20 mothers: "women having the breast milk dry up while nursing. Its horrific." (Exhibit E).

21 23. In response to one Facebook user's comment that his daughter used the
22 product while pregnant, Miller responded: "I hope her baby is normal. Sad thing is the effects of
23 Red Clover and Phytoestrogens may not show up yet in your grandchild and I hope and pray for
24 the sake of your grandchild that the baby continues to stay healthy." (Exhibit C.)

25 24. Miller wrote that "The Red Clover and Phytoestrogens in Monat are causing
26 menstruation problems and infertility as well as miscarriages." (Exhibit F.)

27 25. Along with a post in which Miller stated that she would refuse to provide
28 services to Monat users because of "increased allegations of hair breakage and/or increased hair

1 loss, balding, etc.,” Miller posted photographs of unknown origin depicting scalp sores and hair
2 loss. (Exhibit G.)

3 26. By posting these photographs alongside her claims regarding “increased
4 allegations” of hair breakage, hair loss, and balding, Miller falsely implied that Monat is
5 responsible for the condition depicted in the photographs. (Exhibit G.)

6 27. Miller also falsely stated or implied that over 12,000 people have had
7 adverse reactions to Monat products when she stated that she was in a group that “grew from 140
8 people to 12,000+ clients in TWO MONTHS having adverse reactions.” (Exhibit H.)

9 28. She asserted that she has “watched with horror the problems people are
10 facing with not only their hair but also hormones, struggles with skin issues, etc.” (Exhibit H.)

11 29. Miller cautioned male users of Monat to watch for the following symptoms,
12 thereby falsely implying that such symptoms were caused by Monat:

- 13 1. Blood in your stool
- 14 2. Changes to moods/depression
- 15 3. Cramping
- 16 4. Breaks/cuts in your skin that doesn't heal
- 17 5. Bruising
- 18 6. Headaches or Migraines

19 (Exhibit H.)

20 30. Miller encouraged female users of Monat to watch for the following
21 symptoms, thereby falsely implying that such symptoms were caused by Monat:

- 22 1. Hormone changes (more frequent periods)
- 23 2. Cystic acne you have never had before
- 24 3. Increased migraine headaches
- 25 4. New rashes
- 26 5. Greasy roots with hay like ends
- 27 6. Itching burning on your scalp or body
- 28 7. Excessive amounts of hair thinning or “shedding” / “detox.”

(Exhibit H)

29 31. Miller implied that Monat’s Market Partners were stealing photographs to
30 falsely market Monat products and that Monat was engaging in “cyberbullying.” (Exhibit H.)

1 32. Miller encouraged readers of her post to contact news outlets and
2 government agencies to complain about Monat. (Exhibit H.)

3 33. She also encouraged them to seek out medical advice and particular
4 products, including those marketed on her own Facebook page, to “treat” these conditions, which
5 she claimed were caused by Monat. (Exhibit H.)

6 34. In another post, Miller implied that Monat products “make hair fall out break
7 off tangle into knots, cause infertility problems, miscarriages, changes in menstrual [sic] cycle,
8 blistering and open weeping [sic] wounds on the scalp.” (Exhibit I.)

9 35. Miller also alleged that Monat “coats the hair shaft and the scalp with wax
10 causing the hair to die. There are reports of women losing babies and having their periods every
11 two weeks. Causing infertility.” (Exhibit J.)

12 36. Individually and collectively, Miller’s Facebook posts explicitly or
13 impliedly misrepresent that Monat’s products cause miscarriages, infertility, hormonal imbalance,
14 problems with breast feeding, harm to unborn babies, scalp sores, hair loss, and balding.

15 37. The comments on Miller’s Facebook posts indicate that people actually
16 believe Miller’s false statements about Monat. For instance, one individual commented, “They only
17 look to their own financial gain selling it temporarily” (Exhibit C). Another commentator wrote:
18 “I don’t trust any of the MLM’s . . . it’s a get rich scheme at the customers expense, from shakes to
19 hair products. I wouldn’t spend a dime on any of them.” (Exhibit D.)

20 38. Miller’s Facebook posts and comments have been adopted and republished
21 by a number of individuals, many of whom, on information and belief, have a financial interest in
22 disparaging Monat’s products.

23 39. On information and belief, Miller has made other defamatory statements,
24 and her actions indicate she is likely to continue to make additional statements of a similar nature
25 in the future.

26 40. There is no scientific or factual basis for Miller’s claims.

27 41. Monat’s products have passed all clinical safety tests to which they have
28 been subjected.

1 42. The ingredients in all of Monat's products have been verified as safe for
2 consumer use by the United States Food and Drug Administration and the European Commission
3 in the European Union, in the quantities that Monat uses them.

4 43. Monat takes seriously the consumer complaints it receives, and investigates
5 each complaint to the fullest extent permitted by the consumer.

6 44. Despite selling hundreds of millions of dollars in hair care and personal
7 products, to hundreds of thousands of customers, Monat has seen no bona fide evidence that
8 Monat's products cause hormonal imbalance, scalp sores, hair loss, balding, bloody stool, changes
9 in mood/depression, cuts, bruises, and migraines.

10 45. In particular, Miller's comments that Monat products cause miscarriages,
11 problems with breast feeding, infertility, other reproductive issues, and harm to unborn babies are
12 egregiously false.

13 46. Moreover, Miller's assertion that red clover is the source of reproductive
14 issues is also false.

15 47. Red clover is a plant, and an ingredient that is commonly used in medicines,
16 topical lotions, foods, and beverages, and is widely deemed safe for human use and even ingestion.
17 Such information is publicly available.

18 48. Although Miller is one individual, she has used her social media account as
19 a platform to falsely and maliciously disparage Monat and its products, and to attempt to gravely
20 injure the business.

21 49. Miller has published her posts, comments, and statements directly to, on
22 information and belief, hundreds of people.

23 50. Thousands more have likely viewed Miller's posts by virtue of Facebook's
24 "share" feature, which allows any user to publish, to their entire Facebook network, another user's
25 post.

26 51. Miller's posts have been "shared" on numerous occasions.

27 52. In addition, Miller's Facebook page is publicly accessible, so her posts can
28 be accessed by individuals who are merely surfing Facebook or Google.

53. Miller's Facebook posts are particularly damaging to Monat because Facebook is the primary avenue through which Monat Market Partners promote Monat's products.

54. Through the efforts of its Market Partners, Monat generated over \$200 million in sales in 2017.

55. Miller's false and malicious statements have caused, and continue to cause, Monat to lose product sales. Her statements have improperly, and without justification, dissuaded potential customers from using Monat's products, and have caused existing customers to stop using Monat's products.

56. For example, at least one pregnant woman has told a Market Partner that although she believes statements regarding miscarriages, infertility, and hormonal imbalances are false, she will not continue to use or purchase Monat products because it is not worth taking the risk that the statements are true.

57. In addition, Monat has experienced approximately 1,000 order cancellations in the last two months.

58. Miller's false and malicious statements have damaged, and continue to damage, Monat's relationships with its current Market Partners and their ability to market and sell Monat's products.

59. Miller's false and malicious statements have damaged, and continue to damage, Monat's ability to attract new Market Partners.

60. Miller's statements have also damaged Monat because they have prevented consumers from purchasing Monat's products, and have deterred Market Partners from working, or continuing to work, with Monat.

**COUNT I:
NEVADA DECEPTIVE TRADE PRACTICES ACT
(NRS 598.0915; NRS 41.600)**

61. Monat incorporates Paragraphs 1-60 above as Paragraph 61.

62. In her capacity as a stylist and competitor, Miller has publicly and falsely disparaged Monat's goods by false and misleading misrepresentations of fact.

63. In her capacity as a stylist and competitor, Miller has publicly and falsely represented that Monat's ingredients cause harm including, but not limited to, balding, hair loss, miscarriage, hormonal imbalance and infertility.

64. In her capacity as a stylist and competitor, Miller has publicly and falsely represented that Monat's products are of inferior quality, unsafe, or toxic.

65. Miller made these representations knowing that they were false.

66. Miller's Facebook posts have the tendency to deceive or mislead consumers and have in fact deceived and misled consumers by telling them that Monat's products are detrimental to their health and well-being, when no such danger exists.

67. Miller's Facebook posts evidence an intent to injure competitors and to destroy or substantially lessen competition for the purchase of the salon-brand products sold by Miller.

68. Miller has caused Monat to suffer damages greater than \$75,000.00, the exact amount of which will be proven at trial.

69. It has been necessary for Monat to retain the services of attorneys to prosecute this action, and it is entitled to the recovery of its attorneys' fees and costs incurred herein.

**COUNT II:
COMMERCIAL DISPARAGEMENT AND CORPORATE DEFAMATION**

70. Monat incorporates Paragraphs 1-60 above as Paragraph 70.

71. On her public Facebook page, Miller published falsehoods about Monat and its products, on information and belief, to hundreds or even thousands of individuals.

72. Miller's statements were intended to, and did, impugn Monat's reputation, its good name, and its ability to conduct its business.

73. Miller's statements are not capable of multiple interpretations. Each was directed at Monat and its products, and were intended to cause damage to each.

74. There is no applicable privilege covering Miller's statements.

1 75. Miller knew her statements were false, or she was reckless with regard to
2 the truth or falsity of her statements.

3 76. In context, a reasonable person viewing Miller's statements as a whole, or
4 individually, would understand that she represented that Monat's products cause miscarriages,
5 trouble with breast feeding, harm to unborn children, infertility, hormonal imbalance, scalp sores,
6 chemical burns, hair loss, and balding.

7 77. Miller's statements have caused mental anguish and unnecessary stress for
8 Monat employees who have had to deal with the business repercussions of Miller's false
9 statements.

10 78. Miller made her statements with willful and malicious intent, as
11 demonstrated by the content of her posts.

12 79. Miller made her statements with the intent of causing Monat to lose
13 customers, market share, and Market Partners.

14 80. Miller's statements, which have on information and belief, reached hundreds
15 if not thousands of individuals have directly resulted in significant pecuniary losses caused by the
16 loss of existing and potential Market Partners and customers.

17 81. Miller's false and malicious statements have caused, and continue to cause,
18 Monat to lose product sales. Her statements have improperly, and without justification, dissuaded
19 potential customers from using Monat's products, and have caused existing customers to stop using
20 Monat's products.

21 82. For example, at least one pregnant woman has told a Market Partner that
22 although she believes statements regarding miscarriages, infertility, and hormonal imbalances are
23 false, she will not continue to use or purchase Monat products because it is not worth taking the
24 risk that the statements are true.

25 83. Miller's false and malicious statements have damaged, and continue to
26 damage, Monat's ability to attract new Market Partners.

27 84. Miller has caused Monat to suffer damages greater than \$75,000.00, the
28 exact amount of which will be proven at trial.

1 85. It has been necessary for Monat to retain the services of attorneys to
2 prosecute this action, and it is entitled to the recovery of its attorneys' fees and costs incurred
3 herein.

4 **COUNT III:**
5 **DEFAMATION**

6 86. Monat incorporates Paragraphs 1-67 above as Paragraph 86.

7 87. In addition to making disparaging and false statements about Monat's
8 products, Miller's Facebook posts falsely accuse Monat of lying to customers.

9 88. Miller asserted that Monat is destroying lives and implied Monat is
10 indifferent to suffering allegedly caused by Monat products because Monat is motivated only by
11 money.

12 89. These statements are aimed directly at Monat's business reputation.

13 90. Moreover, Miller has made statements that Monat's products cause
14 miscarriages, harm to unborn babies, infertility, menstruation problems, balding, depression,
15 headaches, migraines, cystic acne, hormonal changes, and bloody stool.

16 91. These comments are egregiously false, and go directly to the core of Monat's
17 business.

18 92. Miller's statements have damaged, and continue to damage, Monat's
19 business reputation.

20 93. There is no applicable privilege covering Miller's statements.

21 94. Miller's statements directly call into question Monat's fitness for trade,
22 business, or profession.

23 95. Miller's statements are false, or she was reckless with regard to the truth or
24 falsity of her claims.

25 96. Miller's claims constitute defamation per se.

26 97. In the alternative, a reasonable person would interpret Miller's statements to
27 represent that Monat engages in unethical business practices, and intentionally distributes products
28 that are harmful to consumers. Miller's claims, therefore, constitute defamation per quod.

1 98. Miller published these statements on Facebook to, upon information and
2 belief, hundreds or thousands of people.

3 99. Miller published these statements knowing they were false or with reckless
4 disregard of their falsity for the purpose of impugning Monat's business reputation.

5 100. Monat suffered reputational and pecuniary damages as a result of Miller's
6 false statements.

7 101. Miller has caused Monat to suffer damages greater than \$75,000.00, the
8 exact amount of which will be proven at trial.

9 102. It has been necessary for Monat to retain the services of attorneys to
10 prosecute this action, and it is entitled to the recovery of its attorneys' fees and costs incurred
11 herein.

12 **COUNT IV:**
13 **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

14 103. Monat incorporates Paragraphs 1-60 above as Paragraph 103.

15 104. Monat has had a network of Market Partners since October 2014.

16 105. Monat's existing Market Partners are continually attempting to recruit new
17 Market Partners to sell Monat's products.

18 106. Miller is aware of Monat's contractual and economic relationships with
19 existing and potential Market Partners because, on multiple occasions, she referenced Monat
20 Market Partners in her Facebook posts.

21 107. Miller actively spreads falsehoods about Monat and its products to disparage
22 existing Market Partners and prospective Market Partners, and customers, from associating with
23 Monat and purchasing its products.

24 108. Miller's defamatory statements were intentionally aimed at discouraging
25 potential Market Partners and customers from engaging in contractual and economic relationships
26 with Monat.

27 109. No privilege or justification exists for Miller's defamatory statements.
28

1 110. Miller's intentional and unjustified interference and false statements have
2 caused existing and prospective Market Partners to choose not to do business with Monat.

3 111. Miller's intentional and unjustified interference has caused customers to
4 decide to forego purchasing products from Monat. Such economic transactions would have
5 occurred but for Miller's interference.

6 112. On information and belief, there are specific customers who have cancelled
7 orders based on Miller's false and defamatory statements, who will be uncovered through discovery
8 of Miller's communications, Facebook friend list, and other contacts.

9 113. Miller made her statements with willful and malicious intent, as
10 demonstrated by the content of her posts.

11 114. Miller has caused Monat to suffer damages greater than \$75,000.00, the
12 exact amount of which will be proven at trial.

13 115. It has been necessary for Monat to retain the services of attorneys to
14 prosecute this action, and it is entitled to the recovery of its attorneys' fees and costs incurred
15 herein.

16
17 WHEREFORE, Monat Global Corp requests the following relief against Defendant
18 Toni Miller:

19 a) Permanent injunctive relief requiring Miller to remove from her Facebook
20 and the Internet all of her false statements concerning Monat's products;

21 b) permanent injunctive relief preventing Miller from publishing further false
22 statements concerning Monat's products;

23 c) an order requiring Miller to release public statements to ameliorate the
24 negative effect of her false statements;

25 c) compensatory damages based on injury Miller caused to Monat's sales, the
26 value of its products, business interests, and reputation;

27 d) punitive and exemplary damages in excess of \$225,000 for Miller's
28 intentional and maliciously false statements; and

1 e) any other just relief.

2 RESPECTFULLY SUBMITTED this 21st day of February, 2018.

3
4 McDONALD CARANO LLP

5 By: /s/Amanda C. Yen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of McDonald Carano LLP, and that on or about the 21st day of February, 2018, a true and correct copy of the foregoing **COMPLAINT** was electronically filed with the Clerk of the Court by using CM/ECF service which will provide copies to all counsel of record registered to receive CM/ECF notification.

/s/ Jelena Jovanovic
An employee of McDonald Carano LLP

INDEX OF EXHIBITS

<u>Description</u>	<u>Exhibit No.</u>
Facebook Page – Toni Miller Advertisement for \$45.00 Hair Treatment for Hair Affected by Monat	A
Facebook Page – PH Level is Unsafe	B
Facebook Page – Grandchild, toxicity, destroying lives	C
Facebook Page – Infertility and harm to unborn babies	D
Facebook Page – Dried up Milk	E
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Scalp Pictures	G
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